

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - LOS ANGELES

In the Matter of	)	Case No.: 11-V-18414 - RAH
	)	
<b>RAOUL JORGE SEVERO,</b>	)	
	)	<b>DECISION &amp; ORDER GRANTING</b>
<b>Member No. 78104,</b>	)	<b>PETITION FOR RELIEF FROM ACTUAL</b>
	)	<b>SUSPENSION</b>
<u>A Member of the State Bar.</u>	)	

**Introduction**<sup>1</sup>

The issue in this matter is whether petitioner RAOUL JORGE SEVERO (petitioner) has demonstrated, to the satisfaction of this court, his rehabilitation, present fitness to practice, and present learning and ability in the general law so that he may be relieved from the actual suspension imposed on him by the Supreme Court in its October 22, 2003 order in *In re Raoul Jorge Severo on Discipline*, case number S118210 (State Bar Court case numbers 00-O-11980, 00-O-11982, 00-O-13278, 01-O-00369, 01-O-01768 (consolidated)) (*Severo III*). (Std. 1.4(c)(ii).)

For the reasons set forth in this decision, the court finds that petitioner has shown, by a preponderance of evidence, that he has satisfied the requirements of standard 1.4(c)(ii). Therefore, the petition for relief from actual suspension will be granted.

**Significant Procedural History**

In its October 22, 2003 order in *Severo III*, the Supreme Court placed petitioner on five years' stayed suspension and five years' probation on conditions, including a three-year and six-

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<sup>1</sup> All references to standards (std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

month actual suspension that will continue until petitioner establishes his rehabilitation, present fitness to practice, and present learning and ability in the general law in accordance with standard 1.4(c)(ii).<sup>2</sup> It is this three-year and six-month minimum suspension that is the subject of the petition for relief from actual suspension now before the court.

Petitioner filed the present petition for relief from actual suspension on November 10, 2011. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed a response opposing the petition on December 29, 2011. On January 19, 2012, petitioner filed a reply brief to the State Bar's opposition.

Trial was held on January 23, 2012. Thereafter, the court took the matter under submission for decision on January 24, 2012, once it received copies of certain documents.

Petitioner was represented in this matter by Attorney Michael V. Severo. The State Bar was represented by Deputy Trial Counsel Hugh G. Radigan.

### **Findings of Fact and Conclusions of Law**<sup>3</sup>

#### **Jurisdiction**

Petitioner was first admitted to the practice of law in California on December 21, 1977; however, effective April 28, 1986, petitioner was disbarred. Then, on a petition for reinstatement and on the recommendation of the State Bar of California, the Supreme Court filed an order on May 16, 1990, terminating petitioner's disbarment and ordering his reinstatement as a member of the State Bar of California upon his payment of the required fees and taking the

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<sup>2</sup>The Supreme Court imposed this discipline on petitioner in accordance with a stipulation as to facts, conclusions of law, and disposition that petitioner entered into with the State Bar in *Severo III* and that was approved by the State Bar Court in an order filed on June 12, 2003, in *Severo III* (*Severo III* stipulation).

<sup>3</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code unless otherwise indicated.

oath required by law. Thereafter, petitioner was reinstated on May 23, 1990, and has been a member of the State Bar of California since that time.

### **Rehabilitation & Present Fitness to Practice**

The review department concluded and held in *In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 580-581, as follows:

We conclude that, in the absence of extraordinary circumstances, rehabilitation in relief from [actual] suspension matters [under standard 1.4(c)(ii)] must be measured by the disciplined attorney's conduct from the time of the imposition of the last discipline that led to the suspension.

We further hold that, as a minimum, the petitioner in relief from suspension proceedings, where a standard 1.4(c)(ii) condition has been ordered must show strict compliance with the terms of probation, and must show by a preponderance of the evidence, exemplary conduct from the time of the imposition of the last prior discipline. Having made such a showing, petitioner must additionally, by a preponderance of the evidence, show that the conduct evidencing rehabilitation is such that the court may make a determination that the conduct leading to the discipline or other need for rehabilitation is not likely to be repeated.

In weighing such a determination, the court should look to the nature of the underlying offense, or offenses; any aggravation, other misconduct or mitigation that may have been considered; and any evidence adduced that bears on whether the cause or causes of such misconduct have been eliminated. Such evidence might well consist of testimony or declarations showing change of character of the petitioner from one of greed, rapaciousness or recklessness to one of charity, care and compassion; from a depressed and nonfunctional individual to one of proper adjustment and ability to deal with stress; or from a substance abuser to a person who has overcome those habits. The State Bar is, of course, entitled to rebut any such showing. There must be sufficient evidence upon which the trier of fact can base a determination that the causes of the misconduct have been eliminated and that there is a reasonable basis to believe such misconduct will not recur.

Thus, to determine whether petitioner has established his rehabilitation, this court looks first to the nature of the misconduct underlying his three-year and six-month actual suspension in *Severo III* together with the aggravating and mitigating circumstances surrounding that misconduct. “This is because the amount of evidence of rehabilitation required to justify termination of [an attorney’s] actual suspension varies according to the

seriousness of the misconduct [underlying the suspension]. [Citation.]” (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.) As noted in footnote 2 above, the Supreme Court imposed the three-year and six-month actual suspension on petitioner in accordance with the parties’ *Severo III* stipulation. Thus, that stipulation conclusively establishes the following misconduct and aggravating and mitigating circumstances.

### **The Misconduct in *Severo III***

#### **The Hernandez Client Matter**

On February 17, 2000, Maria Hernandez retained petitioner to represent her as the plaintiff in a personal injury matter in the Los Angeles Superior Court. By the terms of a written fee agreement, petitioner was entitled to a 25 percent contingent fee of the total recovery in the matter.

In July 2000, the personal injury matter was settled for \$320,000. On August 7, 2000, Hernandez filed a petition for arbitration with the Los Angeles County Bar Dispute Resolution Services alleging a fee dispute with petitioner in the personal injury matter. On August 28, 2000, petitioner filed a complaint in Los Angeles Superior Court against Hernandez and others alleging that Hernandez breached the fee agreement by failing to pay petitioner the legal fees he was owed in Hernandez’s personal injury matter.

On March 3, 2001, a settlement agreement was entered into between Hernandez and petitioner. The settlement agreement included a provision in which the parties agreed that Hernandez would not file a complaint against petitioner with the State Bar.

On April 9, 2001, a request for dismissal of the fee dispute matter, with prejudice, was filed by petitioner. The request for dismissal included the signature of Hernandez consenting to the dismissal dated March 21, 2001.

By including as a term of settlement of a dispute, an agreement between Hernandez and petitioner that Hernandez would not file a complaint of professional misconduct against petitioner with the State Bar, petitioner willfully violated section 6090.5, subdivision (a)(1).

### **The Manion Client Matter**

On December 7, 1999, petitioner was employed by Martha Manion to defend her in a criminal case then pending against her and others in the United States District Court for the Central District of California for which petitioner received \$2,500 in advanced fees. On December 17, 1999, petitioner substituted into the criminal matter as Manion's attorney of record. On December 20, 1999, petitioner received Manion's litigation file from Manion's former attorney.

From December 20, 1999, through February 8, 2000, Manion telephoned petitioner approximately thirteen times inquiring as to the status of her case. Petitioner did not return Manion's calls.

On January 28, 2000, petitioner's secretary wrote to Manion informing her that petitioner had not yet completed his review of her file and that there were no new developments on her case. Manion was further informed that petitioner was engaged in trial on another matter and would not be returning to his office until the trial had been completed.

On February 8, 2000, petitioner's secretary wrote to Manion advising her that petitioner would no longer represent her in her criminal case and requested that she sign a substitution of attorney form. In February 2000, petitioner and Manion each requested that petitioner be relieved as counsel in the Manion criminal matter, and on March 1, 2000, the federal district court granted both requests.

By failing to respond to Manion's telephone calls between December 20, 1999, and February 8, 2000, regarding the status of her case, petitioner failed to respond promptly to

reasonable status inquiries of a client in the matter in which petitioner had agreed to provide legal services in willful violation of section 6068, subdivision (m).

### **The Acevedo Client Matter**

On December 22, 1999, Mario Acevedo went to petitioner's office seeking representation in a family law matter, and petitioner's paralegal assistant accepted a \$300 check from Acevedo. This check was meant as payment to the paralegal firm in the same office, by whom petitioner's secretary was also employed, for preparation of dissolution of marriage papers. Petitioner's paralegal mistakenly deposited the check into petitioner's client trust account.

Between December 1999 and May 2000, Acevedo called petitioner's office 10 times, leaving messages on each occasion requesting a return telephone call from petitioner. Petitioner, however, did not return any of Acevedo's telephone calls because he was under the impression that there had been a mistake since he did not handle family law matters.

By failing to return any of Acevedo's telephone calls to petitioner's office between December 1999 and May 2000, petitioner willfully violated section 6068, subdivision (m).

### **The Aggravating Circumstances in *Severo III***

In aggravation, petitioner had two prior records of discipline. In the first prior record of discipline, *In re Raoul Jorge Severo on Disbarment* (1986) 41 Cal.3d 493 (State Bar Court case number 83-C-21-LA) (*Severo I*), petitioner was placed on interim suspension following his conviction of a felony violation of title 18 United States Code sections 371 and 1001 (conspiracy/concealment of material facts from a federal agency). Thereafter, effective April 28, 1986, petitioner was disbarred by order of the Supreme Court in *Severo I*, and as noted above, petitioner was reinstated as a member of the State Bar of California on May 23, 1990.

In his second prior record of discipline, *In re Raoul Jorge Severo on Discipline*, case number S065912 (State Bar Court case numbers 96-O-00776, 97-O-11782 (consolidated))

(*Severo II*), petitioner was placed on two years' stayed suspension and two years' probation on conditions (but no actual suspension) effective February 26, 1998, for violating rule 3-110(A) (failing to perform legal services competently) and rule 4-100(B)(4) (failing to pay out client funds upon request) in one client matter and for violating rule 3-110(A) again in a second client matter.

In *Severo II*, the Supreme Court also ordered petitioner to take and pass the Multistate Professional Responsibility Exam (MPRE) no later than February 26, 1999. Petitioner, however, failed to do so. Accordingly, effective April 19, 1999, petitioner was suspended from the practice of law pending his passage of the MPRE. Petitioner's MPRE suspension was terminated on September 15, 1999, after he passed the MPRE. Even though petitioner's MPRE suspension was not an aggravating circumstance in *Severo III*, it is relevant to his rehabilitation because it is an instance in which he failed to comply with a Supreme Court disciplinary order.

### **The Mitigating Circumstances in *Severo III***

In mitigation, petitioner suffered extreme financial pressures at the time of the misconduct in *Severo III*. He was helping two of his sons launch their respective businesses in mortgage banking and film production, as well as partially supporting his elderly mother. In addition, he was undergoing a marital separation, which resulted in divorce from his second wife, with whom he has one son. Reacting to such pressures, petitioner took on more cases than he was able to effectively handle with the assistance of just a part-time receptionist and a single paralegal assistant.

### **Discussion of Rehabilitation and Present Fitness**

Prior to his suspension, petitioner practiced as a solo practitioner focusing on personal injury and criminal defense work. He was handling 20-30 cases per month with only the assistance of a part-time receptionist and a paralegal assistant. Petitioner acknowledged his

deficient law office management skills at the time. In January 2001, petitioner eliminated his personal injury and criminal law practice and began working with business clients and practicing out of his home. He was ultimately suspended for the misconduct that had occurred prior to downsizing his practice.

Since the Supreme Court's November 21, 2003 order in *Severo III* suspending petitioner for three years and six months, he has only been able to obtain temporary employment, despite his great efforts to secure gainful employment.

On September 28, 2004, petitioner was cited for driving under the influence (DUI), and pleaded guilty to that same offense. The State Bar contends that such conduct does not represent behavior consistent with petitioner's rehabilitation. While the court agrees that even a single misdemeanor DUI is a serious offense and that petitioner's DUI conviction reflects adversely on respondent's claims of rehabilitation and present fitness, petitioner's single DUI conviction standing alone does not establish a lack of either rehabilitation or present moral fitness. This is particularly true since the record fails to suggest, much less establish, that petitioner's DUI conviction is related to the practice of law or to any of respondent's prior misconduct. Likewise, the record fails to establish that petitioner's DUI conviction adversely reflects upon the legal profession in any significant manner.

On October 13, 2005, petitioner filed a petition under chapter 7 of the Bankruptcy Code and, effective June 5, 2006, obtained a bankruptcy discharge of about \$833,000 in taxes and penalties that petitioner owed to the Internal Revenue Service (IRS) and the California Franchise Tax Board (FTB) for the tax years 1990 through 2005, inclusive.<sup>4</sup> In addition, petitioner obtained a bankruptcy discharge of about \$766,000 in unsecured debts that he owed to a variety

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<sup>4</sup> It is significant to note that petitioner's tax debts to the IRS and FTB originated from the foreclosure of petitioner's home. Petitioner was assessed imputed income as a result of the reduction of debt from the foreclosure by the lender.



of creditors. The State Bar contends that petitioner's avoidance of these debts through bankruptcy reflects negatively on his moral character. The court disagrees. (See *In the Matter of Bodell* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459, 468.)

Petitioner attempted to seek out an offer of compromise to address the tax arrearages, but was unable to do so because he had no income, property, or assets to offer. The ability to discharge debts through bankruptcy is afforded to all citizens who so qualify. Again, the record fails to establish that petitioner's bankruptcy petition or his bankruptcy discharge adversely reflects upon his rehabilitation or his present fitness to practice law. There is no suggestion, much less proof, that petitioner misused the bankruptcy laws or procedures.

The State Bar also contends that petitioner's failure to list his law practice as a business he was involved with as a principal within six years of the filing of the chapter 7 petition, reflects negatively on his moral character. The court finds this to be an oversight of a minor relevant fact which does not negatively impact petitioner's rehabilitation or present moral fitness.

In early 2007, petitioner became involved on a pro bono basis in various projects designed to help Hispanic Americans. He assisted in creating "Saber Hacer," an A-Z guide to assisting Hispanic immigrants in achieving cultural, social, and financial competence. He also worked on a project called "*Mendez v. City of Westminster* Tour," which memorialized the importance of the case through a multimedia show.

On February 16, 2007, petitioner's son Bryan died at the age of 30 as a result of an automobile accident. After his son's passing, petitioner sought counseling with a grief counselor and life coach. The loss and the subsequent transformation have further changed petitioner's perspective on life, work, and family. Despite this tragedy, petitioner has persevered and committed himself to his personal and professional rehabilitation.

In this case, the conduct that prompted the court to initially take action was serious. Failing to properly supervise an independent attorney to whom he had entrusted a client collection matter, failing to promptly return calls from another client seeking updates on the client's case, and failing to properly supervise the work of his legal assistant are ethical lapses that cannot be taken lightly. Petitioner, though, has recognized his failings, and has made substantial gains in his rehabilitation process. He has taken steps to prevent such misconduct from recurring. Several years have passed since his misconduct and, as a result of counseling, he is no longer debilitated from his depression.

Petitioner has complied with the conditions of his probation in *Severo III*.

In the declarations of nine witnesses, including five attorneys, with whom petitioner has openly discussed his professional misconduct, the declarants express their confidence that petitioner is rehabilitated, is of good moral character, and has demonstrated his present fitness to practice law. The declarants expressed high regard for petitioner's work ethic and integrity. Many also attested to his remorse and level of understanding regarding the misconduct that led to his removal. Petitioner also credibly testified as to his own rehabilitation and present fitness to practice law.

In sum, the court finds that respondent is rehabilitated and presently fit to practice law.

### **Present Learning and Ability in the General Law**

Petitioner has timely taken and passed the MPRE and furnished proof thereof to the State Bar's Office of Probation in accordance with the Supreme Court's order in *Severo III*. He has also participated in 16 credit hours per year of Minimum Continuing Legal Education approved courses since his suspension began as required. Petitioner has also undertaken the study of insurance law, completing coursework in life, accident, and health insurance, and as a result, in

June 2010 he was licensed by the California Department of Insurance as a life, accident, and health insurance agent (with a restricted license).

Petitioner also reviews the advance sheets in a wide of variety of concentrations, continues to do legal research, and engages in legal discussions with his attorney brother on almost a daily basis.

In addition, in 2009 petitioner was employed by Andraos Capital Management and Insurance Services, Inc., as the director of corporate affairs. One of his duties included advising John Andraos, the president of the company, in the selection of counsel to handle different legal matters for the company. Petitioner was closely involved in monitoring the litigation of *Guardian Life Insurance Co. v. Union Central Life Insurance Co., Andraos Capital Management and Insurance Services, Inc., et al.*, in the United States District Court for the Central District of California, case number CV-07-5732.

The State Bar offered no evidence to contradict any of the evidence offered by petitioner on this issue. The court finds that petitioner has established that he possesses present learning and ability in the general law.

### **Conclusion & Order**

The court finds that petitioner RAOUL JORGE SEVERO has satisfied the requirements of standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct by demonstrating, by a preponderance of the evidence, that he is rehabilitated, presently fit to practice law, and possesses the requisite present learning and ability in the general law.

Accordingly, the court orders that RAOUL JORGE SEVERO'S petition for relief from actual suspension from the practice of law is GRANTED. He will be entitled to resume the practice of law in this state when all of the following conditions have been satisfied:

1. This decision and order have become final, which includes the expiration of the time for seeking reconsideration and review (Rules Proc. of State Bar, rules 5.115, 5.150, 5.409, and 5.410);
2. Petitioner has paid all applicable State Bar fees, previously assessed costs, and other sums (Bus. & Prof. Code, §§ 6086.10, 6140.7, 6140.5); and
3. Petitioner has fully complied with any other requirements for his return to active membership status and is otherwise entitled to practice law.

Dated: February 6, 2012.

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**RICHARD A. HONN**  
Judge of the State Bar Court